

# Exhibit “D”

Richard L. Sanderson  
December 5, 2005

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Volume I, Pages 1-292

Exhibits 1-8

UNITED STATES DISTRICT COURT  
for the  
DISTRICT OF MASSACHUSETTS

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PAUL T. PAPADAKIS,

Plaintiff,

v.

C.A. NO.: 04-30189-MAP

CSX TRANSPORTATION, INC.,

Defendant.

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DEPOSITION OF: RICHARD L. SANDERSON

FLYNN & ASSOCIATES, P.C.

400 Crown Colony Drive, Suite 200

Quincy, Massachusetts

December 5, 2005 10:45 a.m.

REPORTED BY: SONYA LOPES/CSR

Beacon Hill Court Reporting, Inc.  
(617) 569-8050

1 A. Yes.

2 Q. Did you exchange anything written with  
3 Mr. Papadakis?

4 A. No.

5 Q. Did you exchange any e-mails with him?

6 A. No.

7 Q. Did you make any notes of your conversation  
8 with him?

9 A. No.

10 Q. Did you create any memoranda summarizing  
11 those --

12 A. No.

13 Q. -- the conversations?

14 A. No.

15 Q. So there's no written record of what he  
16 said to you or what you said to him?

17 A. No.

18 Q. What's your best recollection of what he  
19 told you about how the accident occurred?

20 A. Well, my best recollection? My best  
21 recollection would be that he told me that when he  
22 was raising the Hy-Rail in the front that he tried  
23 to put it up into the lock position but when he did  
24 that it would fall down.

1 Q. So this is when he was trying to put the --

2 A. Hy-Rail gear.

3 Q. -- into the highway position?

4 A. That he would push down on the bar to put  
5 it up into that locking position, but it would fall  
6 right back down again.

7 Q. By the way, sir, you've never inspected the  
8 actual device that was involved in Mr. Papadakis's  
9 case, have you?

10 A. No.

11 Q. You've never even seen it; correct?

12 A. No.

13 Q. You've never seen it?

14 A. I've never seen it. That's correct.

15 Q. What else did he tell you -- so then go on.  
16 What else did he tell you?

17 A. And then he said -- let me see. He said he  
18 was at the crossing, he tried to raise the Hy-Rail  
19 unit, it went up to the top and fell back down and  
20 it happened a couple of times. And he was not able  
21 to lock it into the position. And then he said  
22 somehow he had chained the wheel up with a chain,  
23 and that was pretty much it. And that was it.

24 Q. When did he say that he got hurt?

1 A. I don't think he ever did to me.

2 Q. Did you ask him about the history -- his  
3 history with the device?

4 A. No, I didn't.

5 Q. Did you ever ask him if he had any problems  
6 with the device?

7 A. No, I didn't.

8 Q. Did you ask him if he had the manual?

9 A. I did not, no.

10 Q. Did you ask him if he received any training  
11 about the Hy-Railer?

12 A. Yes, I did.

13 Q. What did you ask about that?

14 A. I asked if he knew the procedures to, you  
15 know, to work on the Hy-Rail and, you know, get it  
16 back.

17 Q. In other words, you asked if he knew --

18 A. Over centre. I mean, we're getting ahead  
19 of ourselves.

20 Q. Why?

21 A. Because you asked me something in the  
22 beginning. What I'm saying is I didn't explain --  
23 he told me. Then I told him.

24 Q. What did you tell him?

1       A.    Okay.  Going back to the very beginning, I  
2   never -- we never finished that conversation, if you  
3   can understand what I'm saying.  He told me, you  
4   know, that that happened, he pushed the bar.  And  
5   what I said was I don't see how that could happen.  
6   I don't see how, you know, when he pushed the bar up  
7   that the wheel would fall.  I said the -- and why it  
8   would not lock.

9       Q.    Wait a minute.  Is that still your  
10   professional opinion?  Is it still your professional  
11   opinion that the way he described it to you could  
12   not happen?

13      A.    To raise the wheel, no.  The way the wheel  
14   fell, yes.

15      Q.    So make sure the record is clear.  He says  
16   to you I'm trying to put it back up, I got the bar  
17   in the lower socket, I'm pushing down, the wheel's  
18   coming all the way up and falling back down.

19      A.    That's what he told me, yes.

20      Q.    It's your opinion that that could not  
21   happen; correct?

22                   MR. BYRNE:  Objection.  Go ahead.

23   BY MR. FLYNN:

24      Q.    Correct?

1 A. Yes.

2 Q. And you explained that to him in your  
3 conversation with him even before you -- before you  
4 became involved with Mr. Gailor; correct?

5 A. Yeah. Yes. I'd say so.

6 Q. I think you just told me you said to him I  
7 don't see how that could happen.

8 A. Yeah. Yeah.

9 Q. That's still your opinion; correct?

10 A. Yes. Yes.

11 Q. What was the next part of that  
12 conversation?

13 A. And then I said -- then he took off, said  
14 he had to chain the wheel up to lock it. And I said  
15 well, to me it sounds like it's overcammed.

16 Q. So you told him that?

17 A. That was my suggestion, yes.

18 Q. You said that it sounds like it's  
19 overcammed?

20 A. Yes. I said that.

21 Q. Which was completely different from what he  
22 described to you; correct?

23 MR. BYRNE: Objection.

24 A. No.

1 BY MR. FLYNN:

2 Q. Let me ask you this, sir. If he's putting  
3 it up to the highway position, the guide wheel is  
4 rotating back toward the vehicle; correct?

5 A. It's going into the stored position.

6 Q. Which is back toward the vehicle; correct?

7 A. Toward the tire.

8 Q. We know what it looks like here. There's  
9 an arm -- there's an axle that comes out from the  
10 socket; correct?

11 MR. BYRNE: Objection.

12 A. There's a socket. There's two sockets.

13 BY MR. FLYNN:

14 Q. There's two sockets, one on the top, one on  
15 the bottom.

16 A. The one on the bottom would be the one he  
17 would use to store it.

18 Q. The socket ratchet, essentially, is an axle  
19 which goes out from the ratchet to the pivot arm at  
20 the end of which is the guide wheel; correct?

21 MR. BYRNE: Objection.

22 A. There is a Hy-Rail gear. And attached to  
23 the Hy-Rail gear is a subassembly with a lower  
24 socket which attached to that is the arm that